

CITY OF MILPITAS



455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
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MITIGATED NEGATIVE DECLARATION **ENVIRONMENTAL IMPACT ASSESSMENT (EIA) NO. EA14-0003**

A NOTICE, PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970, AS AMENDED (PUBLIC RESOURCES CODE 21,000 ET SEQ.), THAT THE PUBLIC STROAGE REMODEL, WHEN IMPLEMENTED WITH THE REQUIRED MITIGATIONS, WILL NOT HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT.

Project Title: Ulferts Center Zoning Amendment

Project Description: The project includes rezoning the project site from Agriculture to General Commercial; completion of a shared parking agreement; and construction of a 58-space ancillary parking lot to support the existing Ulferts Center and existing and future restaurant/food uses located to the north of the project site. The following entitlements are necessary for the proposed project:

- *Zoning Amendment:* To amend the Zoning Map to be consistent with the General Plan, and to allow the proposed parking lot by rezoning 0.68 acres from Agricultural to General Commercial;
- *Conditional Use Permit:* For a shared parking agreement between the Ulferts Center and San Francisco Public Utilities Commission (SFPUC) property.
- *Site Development Permit:* To evaluate the site layout and landscaping for a new parking lot.

Project Location: Barber Lane, located southwest of I-880 and Highway 237 (APNs: 086-01-035 and 086-02-090)

Project Proponent: Ulferts Center USA Inc., 668 Barber Lane, Milpitas, CA 95035

The City of Milpitas has reviewed the Environmental Impact Assessment for the above project based on the information contained in the Initial Study and finds that the project will have no significant impact upon the environment with the implementation of the following mitigation measures, as recommended in the EIA.

Required Mitigation Measures:

Mitigation Measure AIR-1:

BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices shall be implemented during construction of the proposed project:

- a) Water all active construction areas at least twice daily.
- b) Cover all trucks hauling soil, sand, or other loose materials or require all trucks to maintain at least two feet of freeboard
- c) Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction site.
- d) Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
- e) Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
- f) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- g) Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)
- h) Install sandbags or other effective erosion control measures to prevent silt runoff to public roadways.
- i) Replant vegetation in disturbed areas as quickly as possible.

Mitigation Measure BIO-1: Under the direction of the City of Milpitas Planning Division appropriately timed surveys shall be conducted by a qualified biologist according to protocols acceptable to USFWS and CDFG to determine the presence/absence of special status plant species. Surveys to detect the presence of special status plant species shall be conducted during the appropriate blooming period for each species. While only marginally suitable conditions exist for these species, surveys shall be conducted to ensure that they are absent from the site. If these surveys do not detect the presence of these or any other special status plant species, no further mitigation measures will be necessary. These plants can only be detected in the absence of disking, and any such survey shall be done prior to site disturbance. If special status plant species are detected, CDFG shall be contacted and appropriate protocols for relocating these plants shall be implemented. If identified, a rare plant mitigation and monitoring plan shall be developed to provide for the long-term protection of special status plant species believed present, per the above mitigation measure. The mitigation and monitoring plan for the plant species present would be prepared and, after review and approval by the City of Milpitas, the plan shall be implemented. The plan shall have provisions for either preservation in place or salvage of plant materials. The plan shall provide for the long-term persistence of a sustainable population of that plant species in the designated preserve area on the development property or on a similarly dedicated and preserved area in the general vicinity of the development. The plan shall contain funding and functional assurances for the maintenance and monitoring of the plants along with performance standards. The plan shall be implemented either before or concurrently with ground disturbing activities on the development property. The CDFG requires a 10-day

notification period prior to any grading or earthworks that will affect a listed plant species. Therefore, prior to construction a survey and staking of the any rare plants on site would be required so that salvage of said plant material could be accomplished by CDFG.

Mitigation Measure BIO-2: Prior to any disking for fire or weed control or any demolition or construction activities, a burrowing owl survey shall be conducted. This will include completion of a burrowing owl nesting/occupancy survey on the development property. As established by the CDFG, burrowing owl surveys shall be conducted by walking suitable habitat on the entire property and (where possible) in areas within 150 meters (approximately 500 ft) of the project impact zone. The 150-meter buffer zone is surveyed to identify burrows and owls outside of the project area which may be impacted by factors such as noise and vibration (heavy equipment, etc) during project construction. Pedestrian survey transects shall be spaced to allow for 100 percent visual coverage of the ground surface. The distance between transect center lines shall be no more than 30 meters (approximately 100 ft.) And shall be reduced to account for differences in terrain, vegetation density, and ground surface visibility. If disking is to occur, all burrowing owl nests will be identified through the above survey process and a 250-foot radius established around the site where no disking will be conducted. Each burrowing owl nest site and associated escape burrows will be protected by the 250-foot buffer zone.

Mitigation Measure BIO-3: If construction of proposed project would commence anytime during the nesting/breeding season of native bird species (typically February through August), a pre-construction survey of the project site and vicinity for nesting birds shall be conducted. The survey shall be conducted by a qualified biologist (i.e., experienced with the nesting behavior of bird species of the region) two weeks before the commencement of construction activities. The intent of the survey would be to determine if active nests of special-status bird species or other species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present within the construction zone or within 500 feet of the construction zone. The survey area shall include all trees, shrubs, and buildings in the construction zone and a surrounding 500 foot area.

If active nests are found in areas that could be directly affected or are within 500 feet of construction and would be subject to prolonged construction-related noise, a no-disturbance buffer zone shall be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. The size of the buffer zone and types of construction activities restricted within them will be determined by the qualified biologist taking into account factors such as the following:

- Noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity.
- Distance and amount of vegetation or other screening between the construction site and the nest.
- Sensitivity of individual nesting species and behaviors of the nesting birds.

- Limits of construction to avoid an active nest shall be established in the field with flagging, fencing, or another appropriate barrier and construction personnel shall be instructed on the sensitivity of the nest areas.

Mitigation Measure BIO-4: Prior to removal of any trees, a tree survey shall be conducted by a professional and shall include but not limited to the following:

- The location of the tree;
- Size of tree trunk circumference measured 4.5 feet from the ground; and
- Type of species.

If none of the trees to be removed are deemed protected trees, the project would not conflict with any applicable policies protecting biological resources, such as a tree preservation policy or ordinance and therefore would have no impact. If trees are deemed protected, the project will incorporate the planting of new trees (15" box minimum) at a 3:1 ratio to mitigate the impact as less than significant. If there is not enough room on the project site for the new trees, the applicant shall work with the City on a new location for those trees.

Mitigation Measure CUL-1: As required by County ordinance, this project has incorporated the following guidelines. Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

Mitigation Measure HYDRO-1.1: Prior to construction of the project, the City shall require the applicant to submit a Storm Water Pollution Prevention Plan (SWPPP) and a Notice of Intent (NOI) to the State of California Water Resource Quality Control Board to control the discharge of storm water pollutants including sediments associated with construction activities. Along with these documents, the applicant may also be required to prepare an Erosion Control Plan. The Erosion Control Plan may include Best Management Practices (BMPs) as specified in the California Storm Water Best Management Practice Handbook (such as silt fences/straw waddles around the perimeter of the site, regular street cleaning, and inlet protection) for reducing impacts on the City's storm drainage system from construction activities. The SWPPP shall include control measures during the construction period for:

- Soil stabilization practices,
- Sediment control practices,
- Sediment tracking control practices,
- Wind erosion control practices, and
- Non-storm water management and waste management and disposal control practices.

Mitigation Measure HYDRO-1.2: Prior to issuance of a grading permit, the applicant shall be required to submit copies of the NOI and Erosion Control Plan (if required) to the Department of Public Works. The applicant shall also be required to maintain a copy of the most current SWPPP on-site and provide a copy to any City representative or inspector on demand.

Mitigation Measure HYDRO-1.3: The development shall comply with City of Milpitas ordinances, including erosion- and dust-control during site preparation and grading, and maintaining adjacent streets free of dirt and mud during construction.

Mitigation Measure HYDRO-1.4: The proposed development shall comply with the NPDES permit issued to the City of Milpitas.
This will reduce the construction impacts to less than significant with mitigation.

Mitigation Measure NOISE-1: Project grading and construction activities shall not occur outside the hours of 7:00 a.m. to 7:00 p.m. on weekdays and weekends, and shall not occur on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, as per the City of Milpitas Noise Ordinance.

Copies of the E.I.A. may be obtained at the Milpitas Planning Department, 455 E. Calaveras Boulevard, Milpitas, CA 95035.

By: Marge Sung, Assistant Planner Date: 11/7/14
Name, Title

